

CENTRAL FAX CENTER

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MAY 04 2009

PTO/SB/65 (03-09)

Approved for use through 03/31/2012. OMB 0651-0016

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF  
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**Docket Number (Optional)  
37809-0022Mail to: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450  
Fax: (571) 273-8300NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at  
(571) 272-3282.Patent Number: 6,863,826Application Number: 10/720,761Issue Date: March 8, 2005Filing Date: November 25, 2003CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent  
number (or reissue patent number, if a reissue) and (2) the application number of the actual  
U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s)  
is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. \_\_\_\_\_ original issue date \_\_\_\_\_  
original application number \_\_\_\_\_  
original filing date \_\_\_\_\_☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application  
\_\_\_\_\_ filed on \_\_\_\_\_**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class  
mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-  
1450 OR(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-  
8300.May 4, 2009

Date

Signature



Naomi Olsen

Typed or printed name of person signing Certificate

05/06/2009 DALLEN

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This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO  
to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including  
gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount  
of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark  
Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND  
TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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MAY 04 2009

PTO/SE/85 (03-09)

Approved for use through 03/31/2012. OMB 0851-0018

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 1. SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

## 2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

## 3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input checked="" type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input checked="" type="checkbox"/> \$ 490	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input type="checkbox"/> \$ _____	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ \_\_\_\_\_

## 4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700

## 5. MANNER OF PAYMENT

- ☐ Enclosed is a check for the sum of \$ \_\_\_\_\_
- ☐ Please charge Deposit Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_
- ☒ Payment by credit card. Form PTO-2038 is attached.

## 6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. 50-4257

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MAY 04 2009

PTO/SB/65 (03-08)

Approved for use through 03/31/2012. OMB 0691-0016  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## 7. OVERPAYMENT

As to any overpayment made, please

☒ Credit to Deposit Account No. 50-4257

OR

☐ Send refund check

## WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

## 8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

## 9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.



Signature(s) of Petitioner(s)

Marvin A. Motsenbocker

Typed or printed name(s)

1629 K Street N.W., Suite 602

Address

Washington, DC 20006-1635

Address

May 4, 2009

Date

36,614

Registration Number, if applicable

202-828-1008

Telephone Number

## ENCLOSURES:

- ☒ Maintenance Fee Payment  
☒ Statement why maintenance fee was not paid timely  
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)  
☐ Other:

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MAY 04 2009

PTO/SB/5 (03-09)

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37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."



Signature

Marvin A. Motsenbocker

Type or printed name

May 4, 2009

Date

36,614

Registration Number, if applicable

**STATEMENT**

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

The payment of maintenance fee was unavoidably delayed because the attorney of record, Heller Ehrman, began to dissolve prior to the docket date for paying the maintenance fee and, according to the best information available to me, filed for bankruptcy within two weeks of the mailing of the notice from the PTO. The normal docketing timing overlapped with the time for filing bankruptcy and the notice was ignored, since the law firm did not exist as a viable entity. The inventor-owner discovered this on April 20, 2009, and promptly notified Mots Law PLLC. Mots Law PLLC promptly docketed the filing of this petition.

Please call Marvin Motsenbocker at 202-828-1008 if we can supply any further needed information.

(Please attach additional sheets if additional space is needed)

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